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April 27, 2005

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: November 3, 2005

Case Number: TSO-0170

This decision concerns the eligibility of XXXX XX XXX (hereinafter referred to as "the Individual") to obtain an access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material."¹ This decision considers whether, on the basis of the evidence in this proceeding, the Individual's access authorization should be granted. For the reasons stated below, I find that the Individual's access authorization should not be granted.

I. BACKGROUND

The present case concerns an Individual who first applied for an access authorization in 1985. A background investigation of the Individual revealed derogatory information. As a result, the Local Security Office (LSO) conducted a personnel security interview (PSI) of the Individual on October 21, 1985.

The October 21, 1985 PSI addressed a number of issues including a September 19, 1980 arrest for shoplifting, several omissions from the Personnel Security Questionnaire (PSQ) he submitted as part of his application for access authorization, and a number of past due debts. October 21, 1985 PSI at 13, 19, 20. Apparently, these issues were resolved to the LSO's satisfaction and the Individual was granted a DOE access authorization.

The Individual subsequently transferred to a different DOE facility (the second DOE Facility) in a different state (the State). The second DOE facility's Security Office (SO) subsequently obtained additional derogatory information. Accordingly, the SO conducted an ongoing investigation of the

¹An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will be referred to in this Decision as an access authorization or a security clearance.

Individual in which it held a series of eight PSIs of the Individual. During these PSIs, the Individual repeatedly: failed to cooperate with SO's Investigation, August 21, 1992 PSI at 1-4, August 11, 1994 PSI at 10-11, 22-23; omitted significant information from DOE security forms he was required to submit, March 4, 1992 PSI at 7-42, 47, 50, 56-63, 69-70, May 21, 1993 PSI at 37, 39-42, March 15, 1995 PSI at 26-27; and provided inconsistent incomplete or misleading information to SO, August 21, 1992 PSI at 27-28. The manner in which the Individual conducted himself during this series of eight PSIs raises grave doubts about his credibility and character.

Apparently, the Individual left the second DOE facility sometime between March 1995 and June 1995 and therefore no longer needed a DOE access authorization. Accordingly, his access authorization was terminated on June 30, 1995. Seven years later, in 2002, the Individual was offered employment at the DOE facility at which he was first employed. On April 15, 2002, his application for a DOE access authorization was submitted to the LSO. During the ensuing background investigation and evaluation of his suitability to maintain a DOE access authorization, the LSO obtained and considered the information discussed above. In addition, the LSO considered and evaluated newly acquired derogatory information. As a result, the LSO determined that yet another PSI of the Individual was needed.

On January 29, 2003, the LSO conducted a tenth PSI of the Individual. The PSI began with a discussion of the Individual's November 1984 arrest for driving under the influence of alcohol. January 29, 2003 PSI at 8-13. According to the Individual, he consumed two beers in 45 minutes. *Id.* at 9. This consumption of two beers, the Individual claimed, resulted in a blood alcohol level of .08%. *Id.* at 10. The Individual was then asked to explain the circumstances concerning a number of interactions with law enforcement authorities, including an April 2002 traffic stop that resulted in his being cited for no proof of insurance and speeding and led to his arrest for two outstanding arrest warrants. One of these warrants was for passing a check with insufficient funds in the amount of \$1,298. *Id.* at 15. Next the PSI turned to a discussion of a January 11, 2003 traffic stop in which the Individual was cited for No Sticker. *Id.* at 18-23. The PSI then turned to a discussion of two arrest warrants for bad checks issued on May 11, 2001 and November 3, 2000, for three checks totaling \$734.70. *Id.* at 23. The Individual admitted passing these bad checks. *Id.* at 24. The Individual noted that he had made restitution for these checks. *Id.* at 26. Next the PSI turned to a discussion of three outstanding warrants for Theft by Check and Failure to Appear. *Id.* at 33-34.

The PSI then turned to a discussion of a bounced check the Individual issued on October 26, 1989. *Id.* at 36. When confronted with the record of this bounced check, the Individual responded by claiming he had made restitution to the check's recipient. The Individual further claimed the checks's recipient was unaware of the fact, because the restitution was intercepted by the recipient's soon-to-be ex-wife. *Id.* at 36-39. The Individual subsequently admitted that a warrant for his arrest was issued as a result of his passing this bad check and that the restitution he paid was made through the court. *Id.* at 39-40.

An eviction notice issued to the Individual in January 2001 was also discussed. *Id.* at 49-50. This eviction notice indicated that the Individual was \$1,200 behind in his rent. *Id.* at 49, 58. The

Individual claimed he actually owed only \$800 in back rent. *Id.* at 58. The Individual also admitted he has not paid this back rent. *Id.* at 58.

The PSI also discussed the Individual's two failed business ventures. *Id.* at 50. The Individual was then asked about a judgment against him awarded to Leasecom. The Individual was also asked about three outstanding past due balances on Capital One credit cards in the amounts of \$664, \$999 and \$1,260. *Id.* at 68. The Individual claimed that he was in the process of making a settlement payment on these three debts. *Id.* The Individual was also asked about another Capital One credit card account in the amount of \$1,720. *Id.* at 68-69. The Individual claimed he was unaware of this account. *Id.* at 69. The Individual was asked about a judgment granted to his old business, Phase Four Sportswear, against the Individual in the amount of \$3,063.24 plus costs and interest. *Id.* at 83. The Individual claimed that this was the same judgment that was awarded to Leasecom. *Id.* The Individual was also asked why he did not report these debts on his most recent security form. *Id.* at 89. The Individual responded by stating, "anything they ever asked me to bring in I brought." *Id.* at 100.

The January 29, 2003 PSI failed to resolve many of the security concerns raised by the extremely large volume of derogatory information concerning the Individual. Accordingly, an administrative review proceeding was initiated. *See* 10 C.F.R. § 710.9. The LSO then issued a letter notifying the Individual that it possessed information that raised a substantial doubt concerning his eligibility for access authorization (the Notification Letter). The Notification Letter alleges that the Individual has "engaged in any unusual conduct or is subject to any circumstances which tend to show that the individual is not honest, reliable, or trustworthy; or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security. Such conduct or circumstances include, but are not limited to, criminal behavior, a pattern of financial irresponsibility . . . or violation of any commitment or promise upon which DOE previously relied to favorably resolve an issue of access authorization eligibility." 10 C.F.R. § 710.8(l) (Criterion L).

Specifically, the Notification Letter alleges that the Individual has (1) "established a pattern of not meeting financial obligations and has demonstrated an unwillingness or inability to satisfy his debts since approximately 1985," and (2) "demonstrated a disregard for the law by a pattern of law enforcement problems since approximately 1980." Appendix to Notification Letter at 1, 3.

The Individual filed a request for a hearing in which he made a general denial of the allegations contained in the Notification Letter. This request was forwarded to the Director of the Office of Hearings and Appeals (OHA) who appointed me as Hearing Officer.

At the Hearing, the LSO presented no witnesses. The Individual presented three witnesses: his wife, his supervisor, and a friend. The Individual also testified on his own behalf. *See* Transcript of Hearing, Case No. TSO-0170 (hereinafter cited as "Tr.").

II. STANDARD OF REVIEW

The Hearing Officer's role in this proceeding is to evaluate the evidence presented by the agency and the Individual, and to render a decision based on that evidence. *See* 10 C.F.R. § 710.27(a). The regulations state that “[t]he decision as to access authorization is a comprehensive, common-sense judgment, made after consideration of all the relevant information, favorable or unfavorable, as to whether the granting of access authorization would not endanger the common defense and security and would be clearly consistent with the national interest.” 10 C.F.R. § 710.7(a). I have considered the following factors in rendering this opinion: the nature, extent, and seriousness of the conduct; the circumstances surrounding the conduct, including knowledgeable participation; the frequency and recency of the conduct; the Individual's age and maturity at the time of the conduct; the voluntariness of the Individual's participation; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the motivation for the conduct; the potential for pressure, coercion, exploitation, or duress; the likelihood of continuation or recurrence; and other relevant and material factors. *See* 10 C.F.R. §§ 710.7(c), 710.27(a). The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

III. FINDINGS OF LAW AND FACT

A. Pattern of Financial Irresponsibility

A pattern of financial irresponsibility raises serious security concerns for a number of reasons. It can be evidence of poor judgment or unreliability on the part of an individual. Financial irresponsibility can also render an individual susceptible to coercion. In many cases, the consequences of financial responsibility have led individuals to participate in deceptive, dishonest or illegal activities. Most importantly, history has shown that financial pressure is perhaps the most common motivation for espionage. For these reasons, financial irresponsibility raises a serious doubt about an individual's ability to handle classified material and follow security regulations. *Personnel Security Review* (Case No. VSA-0048), 25 DOE ¶ 83,010 at 86,545 (1996).

The lengthy Appendix to the Notification Letter, which sets forth that information creating substantial doubt about the Individual's eligibility to maintain an access authorization, contains a partial history of the Individual's financial affairs dating back to 1985. This history includes numerous unpaid debts (Statement of Charges at ¶ I.A.1, ¶ I.A.3.b and c, ¶ I.A.5.a and b, ¶ I.A.8.a and b, and ¶ I.A.9.g), repossession of a motor vehicle (Statement of Charges at ¶ I.A.2.a), a default on a bank loan (Statement of Charges at ¶ I.A.3.a), Federal and State tax delinquencies (Statement of Charges at ¶ I.A.4.a, ¶ I.A.5.c, ¶ I.A.6.b, ¶ I.A.7.a, and ¶ I.A.9.e), garnishments of his wages by creditors (Statement of Charges at ¶ I.A.5.b, and ¶ I.A.7.b), unpaid child support (Statement of Charges at ¶ I.A.7.b, and ¶ I.A.9.f), and at least four judgments against him granted in favor of creditors (Statement of Charges at ¶ I.A.9.a, b, c and d). This derogatory information establishes a serious, unambiguous and longstanding pattern of abject financial irresponsibility on the part of the Individual. The Individual's financial circumstances have also been negatively affected by his poor financial management skills and his apparent neglect.

Debts, in and of themselves, do not evidence financial irresponsibility. Some debts are incurred due to circumstances beyond an individual's control. For example, serious medical conditions or natural disasters might result in overwhelming financial burdens. In the Individual's case, there are some financial circumstances that have understandably contributed to his financial plight. At least two failed businesses and several periods of unemployment have posed very real financial setbacks to the Individual. Tr. at 97- 99, 133-139. However, the onset of this pattern of longstanding unpaid debts (and failure to take appropriate action in addressing them) predates the periods of unemployment and the undertaking of these unsuccessful business enterprises.² Accordingly, I find that these two factors do not absolve the Individual of responsibility for his financial circumstances. Moreover, the Record clearly shows that the Individual has not consistently managed his financial affairs in a wise and responsible manner. For example, during the Individual's third PSI, which was conducted by SO on August 21, 1992, the Individual was questioned about \$7,000 in past due debts. August 21, 1992 PSI at 21. The Individual indicated that, after payroll deductions, rent, groceries, utilities, and a car payment, he had \$3,000 a month in disposable income at the time of this PSI. He therefore could have satisfied his financial obligations in just two and one third months.³ *Id.* at 18-20. However, the Individual failed to take this opportunity to apply his disposable income towards his past due debt.

The Individual also attributes his difficult financial circumstances to two other factors, large tax assessments and unduly large child support bills.⁴ I turn now to a detailed discussion of these claims.⁵

² The Individual indicates that his financial problems began in 1987 or 1988. Tr. at 110. According to the Individual, his periods of unemployment began in 1995, when he left his employment at the second DOE facility. Tr. at 97. The two failed businesses were started in the 2000s. Tr. at 133-34, 139.

³ At the time of this PSI, the Individual reported a monthly income of \$7,300 (or \$87,600 per year in 1992 dollars). August 21, 1992 PSI at 12-13.

⁴ The Individual also claimed that his financial problems coincided with the demise of his first two marriages. Tr. at 95. These marital problems, however, do not excuse or explain an 18-year history of financial difficulty.

⁵ To his credit, the Individual recognizes and acknowledges that poor decision making and irresponsibility have contributed to his financial distress. (Tr. at 94, 96, 165).

1. Unpaid Taxes

The Individual attributes some of his financial difficulties to an unfairly large tax burden resulting from an audit of the Individual for the tax years of 1990, 1991 and 1992. The circumstances concerning this audit are unclear. This lack of clarity can be attributed, in large part, to the Individual, who has consistently provided inconsistent and incomplete accounts of those circumstances. A review of the information provided by the Individual during his ten PSIs is instructive. The Individual's taxes were first discussed with the Individual in the fourth PSI, which was conducted on May 21, 1993. During this PSI, the Individual indicated that his taxes had been audited for the years 1990 and 1991. May 21, 1993 PSI at 25. The Individual was then specifically asked, first, if he paid his federal taxes and, second, if he had paid his state taxes. He indicated that he had paid both his federal and state taxes. *Id.* at 26. During this fourth PSI, the Individual indicated that he owed the Internal Revenue Service (IRS) \$13,000. *Id.* at 49.

The Individual was again asked about his taxes in his fifth PSI, which occurred on June 4, 1993. In this PSI, the Individual continued to claim he owed \$13,000 to \$14,000 in back taxes. June 4, 1993 PSI at 22. The Individual indicated that he owed \$6,000 in taxes for 1992 alone, and attributed this 1992 figure to his claiming ten exemptions for that year. June 4, 1993 PSI at 24. The Individual also specifically stated that he filed his state taxes in 1991 and 1992. *Id.* at 27.

The Individual's taxes were also discussed at his sixth PSI, which occurred on September 15, 1993. During this sixth PSI, the Individual admitted that he had been delinquent in filing his 1991 and 1992 state taxes. September 15, 1993 PSI at 17.⁶ During this PSI, the Individual stated that the IRS claimed that he had not submitted tax returns for 1990, 1991 and 1992. September 15, 1993 PSI at 28-29. Subsequent to this PSI, the Individual filed for a Chapter 7 bankruptcy. In his Petition for Bankruptcy, he indicated he indicated he owed back taxes totaling \$22,921.58.

During his seventh PSI, the Individual attributed his financial difficulties to the IRS. April 21, 1994 PSI at 17. The Individual again claimed that as a result of a large tax bill that resulted from an audit of his 1990 and 1991 taxes, he was forced to file a Chapter 7 bankruptcy. April 21, 1994 PSI at 17. However, for the first time, the Individual claimed that he had hired a person to prepare his tax returns (the Tax Preparer), and that the Tax Preparer had included a number of phony deductions in his tax returns. April 21, 1994 PSI at 18-19. In this PSI, the Individual claimed he only owed \$8,000 worth of back taxes. April 21, 1994 PSI at 25. The Individual also represented that he had entered into an agreement with the IRS that would allow him to pay off the \$8,000 he allegedly owed the IRS in a period of three years. April 21, 1994 PSI at 30-31.

The Individual's taxes were next discussed with him in his eighth PSI, which occurred on August 11, 1994. During this PSI, the Individual claimed that the amount originally owed to the IRS was

⁶ Later on in this PSI, the Individual claimed he had always filed his taxes in a timely matter. September 15, 1993 PSI at 37.

\$15,000. August 11, 1994 PSI at 18. He then claimed that the IRS increased this figure to \$21,000, because the case was assigned to a new worker. August 11, 1994 PSI at 18.

During his ninth PSI, the Individual claimed that the amount he owed to the IRS increased from \$8,000 to \$21,000 because of interest. March 15, 1995 PSI at 12-13. The Individual also claimed he didn't owe the State any back taxes. March 15, 1995 PSI at 22-23.

During his tenth PSI, the Individual admitted that he had not filed his federal tax return for the year 2001. January 29, 2003 PSI at 57. Nor had the Individual filed for an extension of the filing period for his 2001 federal tax return. *Id.* The Individual was also asked about an outstanding tax lien of \$562 levied by the State. *Id.* at 61-62.

At the Hearing, the Individual claimed the IRS audit of his 1990, 1991 and 1992 taxes was triggered by an increase in his annual income from \$30,000 to \$50,000. Tr. at 120. The Individual also testified that he had hired the Tax Preparer to prepare his taxes for the years 1990, 1991 and 1992 and that the Tax Preparer had put false information in his returns which indicated that the Individual had losses arising from theft. Tr. at 120, 123. The Individual testified that he signed these tax returns without reading them. Tr. at 123. The Individual further testified that he eventually satisfied his debt to the IRS. Tr. at 125, 177. Later on in the Individual's testimony, the Individual explained that he and his wife pay \$250 a month to the IRS for back taxes due for early withdrawals from his wife's 401(k) plan which was used to finance one of his failed businesses. Tr. at 188. According to the Individual, this \$250 a month was for his wife's back taxes, not his. Tr. at 188-89.

At the Hearing, the Individual was asked about his tax issues with the State, where he lived from 1989 to 1995. Tr. at 124. He testified that the State claims he owes \$9,600, but he is of the opinion he never actually owed the State that much. Tr. at 177-78. The Individual further testified that he tried to resolve his issues with then State, but could not get a straight answer from it when he asked if he owed it any taxes. Tr. at 178-80.

This review of the Individual's statements concerning his taxes shows that (1) the Individual's tax bill most likely resulted from his own actions and (2) information provided to DOE security officials by the Individual is of dubious credibility.

2. Delinquent Child Support

The Individual testified that he owes over \$97,000 in back child support to his first wife. The Individual attributes this arrearage to his past periods of unemployment and the Child Support Authority's failure to give him credit for a period of four years in which he lived with his first wife and their three children after their divorce.⁷ Tr. at 110-12, 168-73. During this period of

⁷ This period, 1986 through 1989, occurred subsequent to the Individual's divorce from his first wife. Apparently, the Individual and his first wife reconciled and moved in together, but did not remarry.

approximately four years, the Individual testified, he was actually supporting his children, but was not formally making the \$300 a month in child support payments. Tr. at 111-12, 168. The Individual further testified that he intends to have this child support arrearage recalculated to reflect his support of his children while living with his first wife during the 1986 through 1989 time period.

It is important to note that the Individual's explanation, even if true, only partially addresses the \$97,000 child support arrearage. The Individual testified that during the four-year period in which he lived with his ex-wife and their children, his child support obligation was set at \$300 a month. Tr. at 111. This \$300 a month obligation multiplied by 48 months (four years) totals \$14,400. While the interest on that amount would be considerable, it does not account for the full \$97,000 arrearage.

Moreover, the Individual testified that at some point, he received a letter from the Child Support Authority indicating that he was \$12,000 in arrears.⁸ Tr. at 127-28. The significance of this testimony is that the Individual has been on notice of his child support arrearage stemming from the 1986-1989 period for quite some time. Apparently, he has only recently begun to address this issue. In essence, the Individual has neglected the problem for over a decade.

Accordingly, the Individual's testimony attributing some of his financial difficulties to excessive child support obligations does not show that his financial condition was due to circumstances beyond his control, but instead shows that his financial condition resulted from his own irresponsibility.

The Individual's financial circumstances cannot be attributed to low income. During the past 20 years, he has had, for the most part, high-paying jobs. He and his current (third) wife's annual household income is in the six-figure range. Tr. at 22. The Individual's income therefore has been more than sufficient to meet his financial obligations. Yet, the Individual has consistently failed to meet those obligations.

B. Disregard for the Law

The Statement of Charges sets forth a listing of legal infractions dating back to 1980. This list includes arrests for Shoplifting (Statement of Charges at ¶ I.A.10.12), Driving Under the Influence (Statement of Charges at ¶ I.A.10.7), four arrests or warrants involving the passing of bad checks (Statement of Charges at ¶ I.A.10.4, 5, 8, and 11), eight arrests or warrants involving his operating a motor vehicle without insurance (Statement of Charges at ¶ I.A.10.1, 3, 4, 8, 9, 10, and 11), two arrests involving failure to appear in court when summoned (Statement of Charges at ¶ I.A.10.2 and 3), three arrests or citations for operating a motor vehicle without current licensing and registration

⁸ The Individual's testimony indicates that he received this letter after leaving the State in 1995. (Tr. at 126-28).

(Statement of Charges at ¶ I.A.10.1, 6, and 10), and one arrest for failing to pay a traffic ticket. (Statement of Charges at ¶ I.A.10.10). In the period from 1980 through 2002, the Individual was arrested no fewer than seven times and had at least five warrants issued for his arrest. (On several occasions, when the Individual was arrested, he was charged with more than one crime.) The Individual's criminal record, which has continued into recent periods, obviously raises grave doubts about the Individual's honesty, judgment, reliability and ability to obey and follow rules and regulations.

C. Mitigation

A finding of derogatory information does not, however, end the evaluation of evidence concerning an individual's eligibility for access authorization. *See Personnel Security Hearing (Case No. VSO-0244)*, 27 DOE ¶ 82,797 (affirmed by OSA, 1999); *Personnel Security Hearing (Case No. VSO-0154)*, 26 DOE ¶ 82,794 (1997), *aff'd*, *Personnel Security Review (Case No. VSA-0154)*, 27 DOE ¶ 83,008 (affirmed by OSA, 1998). In the end, like all Hearing Officers, I must exercise my common sense judgment in deciding whether the individual's access authorization should be granted after considering the applicable factors prescribed in 10 C.F.R. § 710.7(c). Therefore, I must consider whether the Individual has submitted sufficient evidence of mitigation to resolve the security concerns raised by his longstanding financial irresponsibility and disregard for the law. After considering all of the evidence in the record, I find that he has not.

As an initial matter, it was impossible for me to assign any credibility to the Individual's testimony. As the discussions above show, the Individual has consistently, over a period of almost 20 years, provided DOE Security Officials with information that is misleading, contradictory, non-responsive, unduly vague and difficult to believe. This behavior even occurred during the Hearing, where the Individual, while trying to show that he had exhibited periods of financial responsibility, testified that he did not owe anyone but the IRS and the State when he left the State in 1995. Tr. at 126. Later on at the Hearing, the Individual testified that several of the debts appearing on a 2002 credit report "went back to [the State]." Tr. at 143, 146, 157, 159.

1. Financial Irresponsibility

Once a pattern of financial irresponsibility has been established, an individual must demonstrate a new pattern of financial responsibility in order to mitigate or resolve the security concerns raised by the established pattern of financial irresponsibility. *Personnel Security Hearing (Case No. VSO-0108)*, 26 DOE ¶ 82,764 at 85,699 (1996). In the present case, the Individual has not established a pattern of financial responsibility.⁹ While the Individual has apparently realized that he needs to

⁹ However, doubts raised by past financial irresponsibility are not necessarily resolved even when an individual puts his financial affairs in order. *See Personnel Security Hearing (Case No. VSO-0132)*, 26 DOE ¶ 82,780 at 85,711 (1997) (payment of debts does not in itself definitively establish that an individual will conduct his financial affairs responsibly in the future). Some OHA cases have found periods greater than a year insufficient to establish a sufficient new pattern of financial responsibility. *See Personnel Security Hearing, (Case No. VSO-0240)*, 27 DOE ¶ 82,790 (1999) (longstanding pattern of financial responsibility was insufficient to resolve the serious doubts raised by the demonstrated pattern of financial irresponsibility); *Personnel Security Hearing, (Case No. VSO-0347)*, 28 DOE ¶ 82,758 (2000) (where individual who had resolved debts still failed to accept responsibility for his actions).

change and take control over his finances, his efforts so far have come too little, too late, are of questionable wisdom and appear to be only in their formative stage.

Even after he was given an opportunity to submit additional information after the Hearing, the Individual failed to submit any of the information required to establish that his financial affairs are in order, let alone establish a pattern of financial responsibility. Instead, the Individual's testimony made it clear that he either did not have a clear picture of his current financial situation or was unwilling or unable to share it with me. The Individual needed to submit a clear and specific listing of the sources and amounts of his current income. Then the Individual needed to submit an accurate and detailed list of his current expenses and outstanding obligations and establish that he had prepared a budget that would meet his current obligations and make acceptable progress towards paying his outstanding obligations. Finally, the Individual needed to establish that he had implemented and followed the budget for a suitable time period. However, the Individual failed to establish that he had met any of these requirements. All the Individual was able to establish was that he had contracted with a credit counseling service, contracted with a company that was attempting to settle his debts by getting his debtors to agree to reduce their claims against him in return for prompt payment, paid some of his creditors off, taken a personal financial and credit management course, and was beginning to take action to request the Child Support Authority to reduce its assessment of the amount of child support he owes.

After considering the Record, which shows that the Individual has a history of at least 18 years of financial irresponsibility and has yet to establish a pattern of financial responsibility, I find that the questions about his financial responsibility have not been resolved in the Individual's favor.

2. Disregard for the Law

The Individual has failed to produce evidence sufficiently mitigating his 22-year history of disobeying the law. The only evidence that the Individual has submitted in an effort to mitigate the concerns raised by this history were his testimony that these incidents were out of character for him, Tr. at 94-96, his wife's testimony that he is an honest and good man, Tr. at 31-34, his supervisor's and his friend's testimonies in support of his character, Tr. at 68-78 , 80-88, and documentation that he has paid the fines and restitution resulting from his violations of the law.

None of the evidence submitted by the Individual resolves the particularly serious doubts raised by the Individual's long criminal record.

IV. CONCLUSION

The evidence in the Record paints a troubling picture of the Individual. Over a longstanding period, the Individual has, despite often receiving a high income, consistently failed to meet his financial obligations. In addition, the Individual has consistently failed to obey the law, a pattern that has continued into the recent past. Moreover, the Individual has failed to be honest and candid with DOE Security officials. These issues raise particularly serious doubts about the Individual's credibility, judgment, reliability, and ability or willingness to obey rules and follow regulations.

For the reasons set forth above, I conclude that the Individual has not resolved the security concerns raised under Criteria L. Therefore, the Individual has not demonstrated that granting his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Accordingly, it is my opinion that the Individual's access authorization should not be granted at this time. The Individual may seek review of this Decision by an Appeal Panel under the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine
Hearing Officer
Office of Hearings and Appeals

Date: April 27, 2005